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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,230	01/23/2004	Edward G. DiMaggio	D03-0264	8496

27257 7590 12/17/2004

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EXAMINER
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RAMIREZ, RAMON O

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 12/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/764,230

Applicant(s)

DIMAGGIO, EDWARD G.

Examiner

RAMON O. RAMIREZ

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15-19 is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

***Detailed Action***

This is the second Office Action corresponding to amendment filed Nov 18, 2004. The application contains 19 claims. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

***Claim Objections***

Claims 1-19 objected to because the amendment is not presented in a clear manner. Matter to be added must be underline, and matter to be deleted must strikethrough, Applicant fails to do the latter. As way of example attention is brought to claim 1. As understood, in line 5, "engageable with" was meant to be deleted but this clause is underline the clause should have presented as follows: ~~engageable with~~. This error is repeated in all the amended claims. In order to accelerate prosecution of the application, the examiner will consider the mentioned clauses as been deleted. However, appropriate correction in the response to this action.

***Claim Rejections - 35 USC § 102***

Claims 1, 2, 4 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Frank (Pat No 1,331,427).

The instant claims recite a connector having three sections, and a suction cup having a knob receiving the one of the three sections.

The patent to Frank shows a connector (4) having three sections (one attached to

Art Unit: 3632

element 2, one attached to element 3 and one in the middle), and a suction cup (3) having a knob receiving one of the sections of the connector. The connector shown by Frank is capable of supporting a discharge nozzle, and the suction cup of being supported on a sink. As to the method claims, the device shown by Frank can be used following the recited steps.

***Claim Rejections - 35 USC § 103***

Claims 3, 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frank. The angle at which the middle portion of the connector extends, as well as its dimensions are considered to be obvious matter of engineering choice to those skilled in the art having no effect on how the invention is being used.

Claims 5, and 9-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frank in view of Thorne et al. (Pat No 5,492,739).

The patent to Thorne et al. shows a suction cup (11) having a knob portion (15) and a connector defining a hook portion (19) to be received to the knob portion of the suction cup. It would have been obvious to one skilled in the art at the time the invention was made to have provided the connector shown in Frank with a hook portion as show by Thorne et al. as an alternative engaging means, which is easy to use.

***Allowable Subject Matter***

Claims 15-19 are allowed.

*Response to Arguments*

Applicant's arguments have been fully considered but they are not persuasive. The arguments are directed to the interaction of the mounting assembly with the medical apparatus. The latter is not positive element of the invention. The only structure recited here is a connector member and a suction cup, which are shown by the patent to Frank.

*Conclusion*

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RAMON O. RAMIREZ whose telephone number is (703) 308-0748. The examiner can normally be reached on MONDAY-FRIDAY, IST FRIDAY OFF.

Art Unit: 3632

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, LESLIE BRAUN can be reached on (703) 308-2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
RAMON O. RAMIREZ  
Primary Examiner  
Art Unit 3632

ROR  
December 13, 2004